

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JUAN JOSE LOPEZ-CANALES,

Case No. C07-1322-MJP-JPD

Petitioner,

ORDER OF DISMISSAL

V.

A. NEIL CLARK, et al.,

Respondents.

The Court, having reviewed petitioner's 28 U.S.C. § 2241 petition, all papers and exhibits in support of and in opposition to that petition, the Report and Recommendations of the Honorable James P. Donohue, United States Magistrate Judge, and Plaintiff's Objections (Dkt. No. 21), does hereby find and ORDER:

(1) The Court adopts the Report and Recommendation of Magistrate Judge Donohue.

(Dkt. No. 20.) When an alien is ordered removed, the Attorney General has 90 days to remove the alien and has discretion to detain a post-removal alien during and after the removal period. See 8 U.S.C. § 1231(a)(1). Petitioner's removal period began on January 10, 2008, the date the Ninth Circuit Court of Appeals denied Petitioner's Motion for Stay of Removal. See 8 U.S.C. § 1231(a)(1)(B)(ii). Petitioner filed his habeas petition on August 24, 2007, before the removal period began. See *Khotesouvan v. Morones*, 386 F.3d 1298, 1299 (2004). Petitioner's 90-day removal period will expire on or about July 10, 2008.

Once a petitioner has been detained for six months past the final removal order, he may be entitled to conditional release upon a showing that he will be indefinitely detained. Zadvydas v. Davis, 533 U.S. 678, 701 (2001). Petitioner has not yet reached six months in detention past the

1 removal order, which will be on or about July 10, 2008. Petitioner's participation in the appellate
2 process has reasonably delayed his detention and that detention will come to an end after the
3 Ninth Circuit grants or denies his Petition for Review. See Chatelain v. Clark, 2007 WL 2963956
4 (W.D. Wash., 2007).

5 (2) The Petitioner's § 2241 petition is DENIED, and this action is DISMISSED with
6 prejudice; and

7 (3) The Clerk is directed to send copies of this Order to the parties and to Judge
8 Donohue.

9 DATED: February 25, 2008.



10
11 Marsha J. Pechman

12 U.S. District Judge

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

ORDER — 2